

**WILLMAR CITY COUNCIL PROCEEDINGS**  
**COUNCIL CHAMBERS**  
**WILLMAR MUNICIPAL UTILITIES BUILDING**  
**WILLMAR, MINNESOTA**

July 5, 2011  
7:00 p.m.

The regular meeting of the Willmar City Council was called to order by the Honorable Mayor Frank Yanish. Members present on a roll call were Mayor Yanish, Council Members Doug Reese, Ron Christianson, Bruce DeBlieck, Denis Anderson, Steve Ahmann, Rick Fagerlie, Jim Dokken, and Tim Johnson; Present 9, Absent 0.

Also present were City Administrator Michael Schmit, City Attorney Richard Ronning, Police Chief David Wyffels, Fire Chief Marv Calvin, Public Works Director Holly Wilson, Planning and Development Services Director Bruce Peterson, and Administrative Assistant Audrey Peterson.

City Administrator Schmit announced that the 2011 Street and Other Improvements and 12<sup>th</sup> Street NW Improvements hearings were rescheduled to July 18, 2011.

Council Member Anderson offered a motion adopting the Consent Agenda which included the following: City Council Minutes of June 20, Municipal Utilities Commission Minutes of June 27, Planning Commission Minutes of June 22, Accounts Payable through June 29, and Community Education and Recreation Joint Powers Board Minutes of June 24, 2011. Council Member Ahmann seconded the motion, which carried.

At 7:04 p.m. Mayor Yanish opened a hearing on an Ordinance Amending Rates Charged by the Municipal Utilities Commission to be Effective for Billings Sent on and after July 6, 2011. WMU General Manager Bruce Gomm presented details of the two-step proposal to increase electricity rates by 7% in July, 2011, and 7% in January, 2012. Jeff Nuytten, representing Jennie-O Turkey Store, expressed concerns of the increase in rates and how these increases will affect JOTS. Following a lengthy discussion regarding the process to determine the rate increases and the impact of those increases on the citizens and businesses in Willmar, Mayor Yanish closed the hearing at 8:08 p.m.

Following discussion, Council Member DeBlieck offered a motion to introduce the Ordinance Amending Rates Charged by the Municipal Utilities Commission of the City of Willmar, a Public Utility, to be Effective for Billings Sent on and After July 6, 2011. Council Member Johnson seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0

At 8:10 p.m. Mayor Yanish opened a hearing on an Ordinance Amending Willmar Municipal Code Section 3-10 Establishing Penalties for Violations of State Law and City Ordinances Regulating Sale of Alcoholic Beverages. City Administrator Schmit presented details of the proposed revisions to the Liquor Ordinance, specifically in relation to penalties placed on establishments who fail compliance checks. Mayor Yanish recognized individuals who had signed up to address the Council regarding changes to the Ordinance. John Sullivan suggested that employees be held responsible and fines should be increased. Kandice Huisman, employed at Green Mill, stated that all employees should not be penalized for the mistake of another. Laura Lindeman, Kandiyohi County Drug Free Communities Coalition Coordinator, read a letter requesting stiffer monetary penalties than what is proposed to deter servers/establishments from serving underage youth and the suspension/revocation options returned to the previous language. Joe Kohout, Torgerson Properties, expressed support for compliance checks but opposes closing

businesses as it affects all employees. Upon hearing all those who wished to be heard, Mayor Yanish closed the hearing at 8:31 p.m.

Following discussion, Council Member Christianson offered a motion to adopt, assign a number, and order final publication of an Ordinance Amending Willmar Municipal Code Section 3-10 Establishing Penalties for Violations of State Law and City Ordinances Regulating Sale of Alcoholic Beverages. Council Member Anderson seconded the motion, which carried on a roll call vote of Ayes 7, Noes 1 – Council Member Ahmann voted “No.”

Mayor Yanish recognized Kathy Aho, Springsted Incorporated, who presented details of the negotiated sale of the \$1,825,000 General Obligation Improvement Bonds, Series 2011A. Four bids were received, with UMB Bank, N.A. as the low bidder at a 2.2618 percent interest rate. Following discussion, Resolution No. 1 was introduced by Council Member Anderson, seconded by Council Member Fagerlie, reviewed by Mayor Yanish, and approved on a roll call vote of Ayes 8, Noes 0.

#### RESOLUTION NO. 1

#### ACCEPTING OFFER ON THE SALE OF \$1,825,000 GENERAL OBLIGATION IMPROVEMENT BONDS, SERIES 2011A, PROVIDING FOR THEIR ISSUANCE AND LEVYING A TAX FOR THE PAYMENT THEREOF

(For Resolution in its entirety, see City Council minutes file dated July 5, 2011, located in the City Clerk's Office)

Mayor Yanish acknowledged two individuals who had signed up to address the City Council during its scheduled Open Forum. Wendell Swanson spoke in favor of the RV dump site agreement near the recycling center. John Sullivan addressed the Council acknowledging an end to his five-years of involvement with local government activities.

Mayor Yanish called for a recess at 9:10 p.m. and reconvened the meeting at 9:19 p.m.

The Public Works/Safety Committee Report for June 28, 2011, was presented to the Mayor and Council by Council Member Reese. There were five items for Council consideration.

Item No. 1 The Committee considered an agreement prepared by City Attorney Ronning for an easement to construct an RV dumpsite on Kandiyohi County property located at 1400 SW 22<sup>nd</sup> Street near the recycling center. County officials are currently reviewing the agreement. Staff requested permission to allow the City Attorney and City Administrator to formalize the terms of the agreement and authorize its execution.

The Committee was recommending the Council authorize the execution of the agreement pending final approval of the City Administrator and City Attorney. Resolution No. 2 was introduced by Council Member Reese, seconded by Council Member Christianson, reviewed by Mayor Yanish, and approved on a roll call vote of Ayes 8, Noes 0.

#### RESOLUTION NO. 2

BE IT RESOLVED by the City Council of the City of Willmar, a municipal corporation of the State of Minnesota, that the City Administrator be authorized to enter into an agreement between the City of Willmar and Kandiyohi County for an easement for construction of a RV Dump Site on County property located at 1400 SW 22<sup>nd</sup> Street.

Dated this 5<sup>th</sup> day of July, 2011.

/s/ Frank Yanish  
MAYOR

/s/ Michael Schmit  
Attest: CITY ADMINISTRATOR

Item No. 2 Rhonda Rae of Donohue and Associates informed the Committee that Reiner Contracting, Inc., contractor for the decommissioning of the former Wastewater Treatment Facility, has notified the City of substantial completion excluding punch list items. Staff and Donohue have inspected the work and recommend granting substantial completion.

The Committee was recommending the Council approve substantial completion of Project No. 1017-B excluding punch-list items. Resolution No. 3 was introduced by Council Member Reese, seconded by Council Member DeBlieck, reviewed by Mayor Yanish, and approved on roll call vote of Ayes 8, Noes 0.

RESOLUTION NO. 3

WHEREAS, the City of Willmar entered into Contract No. 1017-B with Reiner Contracting, Inc. for the Decommissioning of the Existing Wastewater Treatment Facility; and

WHEREAS, Reiner Contracting, Inc. considers the entire Work ready for its intended use; and

WHEREAS, Reiner Contracting, Inc. has notified the City of its completion of Work, and the Work has been inspected by the City and Donohue & Associates to determine status of completion; and

WHEREAS, the Work was determined to be substantially complete on February 25, 2011, for the Maintenance Building, Structure 100; and

WHEREAS, the Work was determined to be substantially complete on June 13, 2011, for the Project except for items on the punchlist; and

WHEREAS, Donohue & Associates has developed a tentative list of items to be completed or corrected before final payment is issued.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Willmar, a municipal corporation of the State of Minnesota, that the Maintenance Building, Structure 100, be approved for substantial completion as of February 25, 2011, and Project 1017-B, except for items on the punch list, be approved for substantial completion as of June 13, 2011.

Dated this 5<sup>th</sup> day of July, 2011.

/s/ Frank Yanish  
MAYOR

/s/ Michael Schmit  
Attest: CITY ADMINISTRATOR

Item No. 3 Rhonda Rae of Donohue and Associates briefed the Committee on activities for the months of May and June related to the Wastewater Treatment Plant Relocation Project. Program management activities included submittal of Pay Request Nos. 20 and 21 for the 30-year loan to the Public Facilities Authority for the Clean Water Revolving Fund.

The firm continues to provide information for the City's asset management, maintenance and operational program. Work continues on gravity collection piping and force main piping costs. Donohue is assisting legal counsel and City staff to provide final information for property acquisition. An article for the spring edition of the Minnesota Wastewater Operators Association "Wastewatcher" magazine was also prepared. Project deliverables and task checklists for contractors were updated and an amended scope of services for Donohue developed.

Projects 0813-D3 and 0814-D4 are substantially complete. The contractor has been given final direction on the restoration of properties and lowering of manholes. Project 0815-D5 was approved for final project acceptance and final payment in September 2010 and Project 0816-D6 approved in January 2011. All systems at the new Wastewater Treatment Facility are operational and are being operated by City staff. The contractor continues working on punch list items and post start-up services. Training continues along with work on the Vendor and Plant O & M Manuals.

The construction of Project No. 1017-B, decommissioning of the old facility and construction in the Administration Building is complete and the contractor declared substantial completion on the Administration Building as of February 2011 and substantial completion on the project on June 13, 2011.

Project No. 1109-B2, Decommissioning the Ortenblad and Arby's Lift Stations and the Sewer Reroute, was awarded to Reiner Contracting, Inc. of Hutchinson. A Preconstruction Conference was held in May. Reiner has secured bonding and insurance contract requirements and began construction June, 2011. This matter was for information only.

Item No. 4 The Committee considered information related to the implementation of a Commercial Fire Safety Assessment Program by request of the Council following discussion of the Community Development Committee. Fire Chief Calvin presented a program by which firefighters could be trained on fire code enforcement. A goal of 20 commercial properties per month was suggested so that each property would be inspected on a three-year basis. The program was discussed at length and it was the consensus of the Committee to have Staff bring back additional information at a future meeting including cost estimates. This matter was for information only.

Item No. 5 Rhonda Rae of Donohue informed the Committee of an additional item that has been identified for direct purchase under Project No. 0812-C. Ms. Rae recommended modifications to the generator paralleling control system to operate independent of each other while protecting each generator from overloading. This provides the ability to lock out one of the generators and prevent it from running while the remaining generator operates normally and provides backup power to the plant. The total cost for the modifications is \$9,600.00.

The Committee was recommending the Council approve the authorization to make direct purchase in the amount of \$9,600, transfer the money from other services into other charges, and authorize the City Administrator to execute the direct purchase on behalf of the City. Resolution No. 4 was introduced by Council Member Reese, seconded by Council Member Fagerlie, reviewed by Mayor Yanish, and approved on a roll call vote of Ayes 8, Noes 0.

#### RESOLUTION NO. 4

WHEREAS, the Program Budget for Project 0812-C Wastewater Treatment Facility includes \$310,386 for City of Willmar direct purchases relating to the project; and

WHEREAS, a balance of \$0.00 remains for direct purchases; and

WHEREAS, it is necessary to transfer additional funds from other services to direct purchases;

and

WHEREAS, modifications are necessary to the HMI interface screens and the PLC programming to add the ability to lock out one of the generators and prevent the generator from running; and

WHEREAS, the amount of \$9,600.00 will provide the modification to the HMI interface screens and the PLC programming; and

WHEREAS, these costs have been reviewed by City Staff.

BE IT RESOLVED by the City Council of the City of Willmar, a municipal corporation of the State of Minnesota, that these direct purchases in the amount of \$9,600 be approved.

BE IT FURTHER RESOLVED that \$9,600 be transferred from Budget Item Other Services to Budget Item Other Charges for direct purchases for Project 0812-C Wastewater Treatment Facility.

Dated this 5<sup>th</sup> day of July, 2011.

/s/ Frank Yanish

MAYOR

/s/ Michael Schmit

Attest: CITY ADMINISTRATOR

The Public Works/Safety Committee Report for June 28, 2011, was approved as presented and ordered placed on file in the City Clerk's Office upon motion by Council Member Reese, seconded by Council Member Christianson, and approved on a roll call vote of Ayes 8, Noes 0.

The Community Development Committee Report for June 30, 2011, was presented to the Mayor and Council by Council Member Dokken. There were six items for Council consideration.

Item No. 1      There were no public comments offered at this meeting.

Item No. 2      Staff provided the Committee with background information relative to a request for an extension of the listing agreement for the former airport property. The request was for a three-year extension to the current listing agreement which expires January 31, 2013. The extension was being requested because Pro1 has lost three years of marketing due to delays with the land release. It is anticipated that portions of the former airport may be released in the near future. The proposed extension would provide the five-year period anticipated in the original agreement.

Tom and Jean Lindemann were present to discuss their expertise in marketing and selling commercial/industrial real estate. They formally requested a three-year extension to the original listing agreement. Mr. Lindemann noted that Pro1 is part of the multiple listing service and shares sales commissions with participating realtors.

The Committee was recommending the Council grant an extension to the Pro1 listing agreement with a revised termination date of January 31, 2016. Council Member Dokken moved to approve the recommendation of the Community Development Committee with Council Member Christianson seconding the motion, which carried.

Item No. 3      The Committee continued its discussion of a community clean-up effort scheduled for September 10, 2011. Jena Hillenbrand and Steve Peterson from Lakeland Broadcasting explained what was done three years ago to collect and recycle products. The City was considering a partnership with Lakeland Broadcasting to expand collection efforts to include trash and household items

in addition to recyclables. Staff agreed to work with Lakeland Broadcasting to work out vendor and staffing issues. Minimal charges will be required for certain items.

Chair Dokken suggested, that the National Guard become involved, as well as other service clubs. Jena Hillenbrand said they were requesting a City contribution of \$6,000 to offset costs including staffing, advertising, and other logistical costs incurred by the radio station. It was determined that Lakeland Broadcasting would charge for disposal of tires, TV's, and computer monitors, and charges would also be required for garbage/trash/furniture disposal. Staff indicated that they had been working with West Central Sanitation to develop a list of charges for household items.

The Committee was recommending the Council that the City partner with Lakeland Broadcasting on the clean-up effort, and refer the matter to the Finance Committee to determine a funding source. Council Member Dokken moved to approve the recommendation of the Community Development Committee with Council Member Ahmann seconding the motion, which carried.

Item No. 4 Staff alerted the Committee to an anticipated request for tax increment financing to assist a project proposed for the Central Business District. The project includes 9,000 square feet of new construction and would be eligible under a tax increment financing statutory amendment that expires in 2012. The company name and details of the project were withheld for confidentiality reasons. This matter was for information only.

Item No. 5 Staff provided the Committee with the following updates: 1) Progress is being made on the former airport property land release. It appears that portions of the property may be able to be released if the City submits formal marketing plans and an application for National Register listing; 2) The Planning Commission recently approved the Trails and Pedestrian Plan. The next step is to bring the Plan to the Council for ordinance adoption; and 3) Regency mobile home parks have new management. Staff has met with the new manager to convey municipal expectations. It was requested that the new manager be invited to a future Community Development Committee meeting. This matter was for information only.

Item No. 6 The Committee discussed a "Buy Local" campaign and if the City should take a position relative to the Chamber's efforts. No action was taken. Chair Dokken brought up the issue of appeals to conditional use permit decisions. A previous appeal had been heard by the Board of Zoning Appeals, but it is now the opinion of Staff that any appeal to Council action on a conditional use permit should be heard by District Court. Staff agreed to discuss the matter with the Planning Commission to see if a Zoning Ordinance change was needed. This matter was for information only.

The Community Development Committee Report for June 30, 2011, was approved as presented and ordered placed on file in the City Clerk's Office upon motion by Council Member Dokken, seconded by Council Member Christianson, and carried.

City Administrator Schmit informed the Mayor and Council that the Council on Local Results and Innovations was created by the Legislature to set performance benchmarks for City/County operations. Adopted standards are relatively easy to measure using survey tools, and there are two incentives to participate: 1) standing LGA appropriation equal to \$.14 per capita; and 2) an exemption from levy limits. Following discussion, Resolution No. 5 was introduced by Council Member Reese, seconded by Council Member Anderson, reviewed by Mayor Yanish, and approved on a roll call vote of Ayes 8, Noes 0.

#### RESOLUTION NO. 5

#### A RESOLUTION ADOPTING PERFORMANCE MEASURES

WHEREAS, the Minnesota Legislature created a Council on Local Results and Innovation; and

WHEREAS, there are financial incentives for cities to participate in the programs adopted by the Council; and

WHEREAS, participation in the program furthers the City of Willmar's goals of improving service delivery and enhancing communication with residents; and

WHEREAS, the City of Willmar desires to participate in the program.

NOW, THEREFORE, BE IT RESOLVED that the City of Willmar does hereby adopt the ten performance measures developed by the Council on Local Results and Innovation.

IT IS FURTHER RESOLVED that the City Staff is directed to perform all necessary tasks to participate in the program for 2011.

Dated this 5<sup>th</sup> day of July, 2011.

/s/ Frank Yanish

MAYOR

/s/ Michael Schmit

Attest: CITY ADMINISTRATOR

The Mayor and Council considered a request to vacate a portion of a utility easement. Planning and Development Services Director Peterson explained Dr. Jeremy Johnson is requesting vacation of a portion of a 12' utility easement for the construction of his orthodontic office in Les Chermak Addition (19<sup>th</sup> Avenue SW). The easement has no utilities and must be vacated as the building will be built over the easement. The Planning Commission approved the vacation with a resolution as it was a condition of site plan approval. Following discussion, Resolution No. 6 was introduced by Council Member Ahmann, seconded by Council Member Christianson, and reviewed by Mayor Yanish, and approved on a roll call vote of Ayes 8, Noes 0.

#### RESOLUTION NO. 6

#### RESOLUTION SETTING A PUBLIC HEARING TO CONSIDER A PETITION TO VACATE A PORTION OF A UTILITY EASEMENT

BE IT RESOLVED by the City Council of the City of Willmar that the Council conduct a public hearing at 7:05 p.m. on Monday, July 18, 2011, in the Council Chambers at the Municipal Utilities Commission Building, 700 SW Litchfield Avenue, Willmar, Minnesota.

BE IT FURTHER RESOLVED that the purpose of the hearing will be to consider a petition submitted by JJ Holdings, LLC of Spicer, MN, for the vacation of a portion of a 12' wide utility easement legally described as follows: the east 6' of Lot 1, Block 1, Les Chermak Addition and the west 6' of Lot 2, Block 1, Les Chermak Addition.

BE IT FURTHER RESOLVED that any person having an interest in said matter is invited to appear in person or be represented by counsel to be heard on this matter.

Dated this 5<sup>th</sup> day of July, 2011.

/s/ Frank Yanish

MAYOR

/s/ Michael Schmit

Attest: CITY ADMINISTRATOR

Public Works Director Wilson informed the Mayor and Council that due to the rescheduling of the improvement hearing for Project No. 1112, 12<sup>th</sup> Street Southwest, Staff will attempt to secure signatures of property owners to waive a public hearing so that the Project can be included in this year's work. It was noted that 100 percent of the owners must sign the petition. Following discussion, Resolution No. 7, approving plans and specifications and calling for bids, was introduced by Council Member Reese, seconded by Council Member Ahmann, reviewed by Mayor Yanish, and approved on a roll call vote of Ayes 8, Noes 0.

WHEREAS the City Engineer of the City of Willmar has presented to the City Council plans and specifications for Project No. 1111/1112 for the City of Willmar;

Dated this 5<sup>th</sup> day of July, 2011.

Attest: CITY ADMINISTRATOR

There being no further business to come before the Council, the meeting adjourned at 10:06 p.m. upon motion by Council Member Reese, seconded by Council Member Ahmann, and carried.

MAYOR

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